



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable P. L. Marquess
County Auditor
Wharton County
Wharton, Texas

Dear Mr. Marquess:

Opinion No. 0-7289

Re: Whether or not the Board of Trustees of an independent school district may retain professional expert witnesses to aid in determining values of property within the school district, and make payment for such out of the funds of the school district, and other incidental questions.

We have your telegraphic request for an opinion upon the above subject-matter, as follows:

"Please give me your opinion at earliest convenience on following questions concerning Board of Trustees in Independent School District:

"1. May the Board of Trustees as an official body sit as a Board of Equalization, or is it mandatory to select or appoint an independent group of men to serve as such?

"2. May the Board of Trustees retain professional men to serve as expert witnesses and to aid in determining values of property within the school district and make payment for such services out of funds of the school district?

"3. May the Board of Trustees or a chosen Board of Equalization maintain a joint hearing with the Boards of Equalization of a city within its limits for valuation purposes?

"Perhaps your opinion lists contain parallel ones to these questions, and if so, would appreciate your earliest accommodation on the matters."

Honorable P. I. Marquess - page 2

We answer your questions categorically, as follows:

1. Question 1 is answered in the negative in our Opinion No. 0-3734, copy of which is enclosed herewith.

2. Trustees of independent school districts are public officers, and have only those powers conferred upon them by law. It is not necessary, however, that the conferring of power be express -- in precise words -- but there is always to be implied, in connection with an express power, the further power to do those things necessary to the proper exercise of the primary power. There is no express power authorizing the trustees of an independent school district to employ expert witnesses in the matter of equalizing taxes. We think, however, that power is conferred by necessary implication, if in the sound official judgment of the board of trustees, such employment of expert witnesses is necessary to a proper discharge of their duties to have a proper and suitable equalization of properties taxed in the district.

Subdivision 2. of Article 2827 Revised Civil Statutes, Vernon's codification, declares:

"Local school funds from district taxes, tuition fees of pupils not entitled to free tuition, and other local sources may be used for the purposes enumerated for state and county funds, and for purchasing appliances and supplies, for the payment of insurance premiums, janitors and other employees, for buying school sites, buying, building and repairing and renting school houses, and for other purposes necessary in the conduct of the public schools to be determined by the board of trustees. * * *" (Emphasis ours)

We think this language is rightly to be construed to authorize the employing of all necessary means at hand to obtain a just and reasonable valuation of taxable property in the district.

This department has held that the constitutional authority vested in the Commissioners' Court over all county business constitutes sufficient basis for the employment by the Commissioners of such a tax expert as a witness before the equalization body. (See Opinion No. 0-1612). Court decisions, by the clearest analogy, support this conclusion. Arrington v. Jones, 191 S. W. 361, upheld the right of an independent school district to employ an attorney to bring suit to cancel a teacher's contract. See, also, Moseley v. City of Dallas, 17 S. W. (2) 36.

Honorable P. L. Marquess - page 3

Your question 2, therefore, is answered in the affirmative.

3. The Board of Equalization for the District, if it sees fit to do so, may sit jointly with another board of equalization as of a city within its limits, to determine property values. The board as such, however, must reach its own conclusion upon the hearing from all the evidence before them, such joint hearings being merely a matter of convenience to the respective boards. See our Opinion No. 0-3175, copy of which accompanies this opinion.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Ocie Speer
Ocie Speer
ASSISTANT

APPROVED JUL 22, 1946

Carl F. Bailey
FIRST ASSISTANT
ATTORNEY GENERAL

OS-MR

Enclosures

